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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,939	03/22/2004	James R. Rousseau	P2166US	1023
8968	7590	01/10/2006	EXAMINER	
GARDNER CARTON & DOUGLAS LLP ATTN: PATENT DOCKET DEPT. 191 N. WACKER DRIVE, SUITE 3700 CHICAGO, IL 60606			RINEHART, KENNETH	
		ART UNIT		PAPER NUMBER
				3749

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/805,939	ROSSEAU ET AL.
	<b>Examiner</b> Kenneth B. Rinehart	<b>Art Unit</b> 3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 November 2005.  
 2a) This action is **FINAL**.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 25-34 is/are allowed.  
 6) Claim(s) 1-9,11,13,15-17,19,20 and 22-24 is/are rejected.  
 7) Claim(s) 10,12,14,18 and 21 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 22 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 11/21/05 have been fully considered but they are not persuasive. The applicant argues that the identified elements are illustrated. The examiner disagrees. The drawings do not show that the air is ionized or that the gates are slidable. The applicant argues that the office action fails to establish a *prima facie* case for obviousness as there is no support from the prior art, or that the prior art must also suggest the desirability of the combination. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In this case, it well known by those of ordinary skill in the art that providing a predetermined distance will facilitate drying. The applicant argues that Collier teaches away from the present invention. The examiner disagrees. The applicant is arguing against the references individually. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, means for conveying a flow of ionized air, slidable gates are disposed on the top surface of he base to regulate airflow to the

tubular members must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-9, 11, 13, 15, 16, 19, 20, 22, 23, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collier (6880711) in view of Leamon, Jr. (6,553,687). Collier discloses

a plurality of generally hollow tubular members with at least one section having a plurality of apertures (fig. 5), an airflow generator for generating an ambient temperature airflow through the tubular members and out of the apertures (66, fig. 1), a fragrance generator that provides a fragrance to the airflow conveyed through the tubular members (106, fig. 1), a filtration system for the air that is conveyed through the tubular members (106, fig. 1), the plurality of tubular members includes at least one generally horizontally disposed tubular member and at least one generally vertically disposed tubular member (fig. 5), comprising a source of ambient temperature air that is supplied to the airflow generator (66, fig. 1), the airflow generator is a motorized fan (66, fig. 1), the tubular members are hollow PVC (fig. 5), apertures are provided to accommodate a piece of sports equipment or apparel selected from the group comprising a skate, a boot, footwear, a glove, a helmet, a shin guard, and elbow guard, pants, or a jersey, shoulder pads, and hip pads (fig. 1), a control panel for controlling the activation and operation of the airflow generator, an electronic control panel that can regulate the airflow rate and the operation of the airflow generator (67, 69, fig. 1), the airflow generator allows for variable and constant speeds (67, 69, fig. 1), a substantially enclosed base having a plurality of air intake vents and including a variable/constant speed airflow generator (66, 68, fig. 1), a plurality of generally hollow tubular members for supporting sports equipment and apparel (fig. 5), wherein at least one of the tubular members is attached to the base and receives a flow of air from the airflow generator (fig. 5, fig. 1), the electronic control panel includes a timer function for operating the motorized fan for a predetermined period of time. Collier discloses applicant's invention substantially as claimed with the exception of at least one support member located proximate the apertures for maintaining a piece of sports equipment or apparel at a

predetermined distance from the apertures. Leamon teaches at least one support member located proximate the apertures for maintaining a piece of sports equipment or apparel at a predetermined distance from the apertures (22, fig. 1), at least one area on the tubular members that includes a plurality of apertures and at least one support member maintaining a piece of sports equipment at a predetermined distance from the apertures and allowing a flow of air to be conveyed to the surface of the sports equipment (22, fig. 1) for the purpose of providing improved air flow. It would have been obvious to one of ordinary skill in the art to modify Collier by including at least one support member located proximate the apertures for maintaining a piece of sports equipment or apparel at a predetermined distance from the apertures, at least one area on the tubular members that includes a plurality of apertures and at least one support member maintaining a piece of sports equipment at a predetermined distance from the apertures and allowing a flow of air to be conveyed to the surface of the sports equipment as taught by Leamon for the purpose of providing improved air flow so that the apparatus will process articles more effectively.

Claims 3, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collier (6880711) in view of Leamon, Jr. (6,553,687) as applied to claim 1 above, and further in view of Lancer (2002/0194746). Collier (6880711) in view of Leamon, Jr. (6,553,687) discloses applicant's invention substantially as claimed with the exception of an antifungal agent generator that provides an antifungal agent. Lancer teaches an antifungal agent generator that provides an antifungal agent (paragraph 57) for the purpose of eliminating fungi. It would have been obvious to one of ordinary skill in the art to modify Collier by including an antifungal agent generator

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that provides an antifungal agent as taught by Lancer for the purpose of eliminating fungi to promote a healthier environment.

***Allowable Subject Matter***

Claims 25-34 are allowed.

Claims 10, 12, 14, 18, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B. Rinehart whose telephone number is 571-272-4881. The examiner can normally be reached on 7:20 -4:20.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kbr

  
KENNETH RINEHART  
PRIMARY EXAMINER